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Agenda item 109 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

France and Japan: draft resolution

Khmer Rouge trials

The General Assembly,

Recalling that the serious violations of Cambodian and international law during the period of Democratic Kampuchea from 1975 to 1979 continue to be matters of vitally important concern to the international community as a whole,

Recognizing the legitimate concern of the Government and people of Cambodia in the pursuit of justice and national reconciliation, stability, peace and security,

Recognizing also that the accountability of individual perpetrators of grave human rights violations is one of the central elements of any effective remedy for victims of human rights violations and a key factor in ensuring a fair and equitable justice system and, ultimately, reconciliation and stability within a State,

Conscious that the opportunity to bring those responsible to justice may soon be lost,

Recalling the request made in June 1997 by the Cambodian authorities for assistance in responding to past serious violations of Cambodian and international law,

Recalling also its resolution 56/169 of 19 December 2001, taking note of Commission of Human Rights resolution 2002/89 of 26 April 2002,[1] and recalling further previous relevant resolutions,

Welcoming the efforts of, and the substantial progress made by, the Secretary-General and the Government of Cambodia towards the establishment of Extraordinary Chambers within the existing court structure of Cambodia, with

[1] See *Official Records of the Economic and Social Council, 2002* (E/2002/23), chap. II, sect. A.

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international assistance, for the prosecution of crimes committed during the period of Democratic Kampuchea,

Welcoming in particular the promulgation of the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea, and noting with appreciation the general provisions and competence of the Law and its provision for a role for the United Nations,

Noting the statements of the Secretary-General on 8 February and 20 August 2002 concerning negotiations between the Secretary-General and the Government of Cambodia on the establishment of the Extraordinary Chambers,

Welcoming the subsequent discussions between the Secretary-General and the Government of Cambodia on the establishment of the Extraordinary Chambers,

Welcoming also the Joint Communiqué of the thirty-fifth Ministerial Meeting of the Association of South-East Asian Nations, held in Brunei on 29 and 30 July 2002, which, inter alia, expressed support for the continued efforts of the Government of Cambodia to bring the senior leaders of Democratic Kampuchea and those most responsible for serious crimes committed to trial in accordance with international standards of justice, fairness and due process of law and recognized the need for the Government of Cambodia and the United Nations to cooperate in this regard,

Desiring that the international community continue to respond positively in assisting efforts to investigate the tragic history of Cambodia, including responsibility for past international crimes such as acts of genocide and crimes against humanity committed during the regime of Democratic Kampuchea,

1. *Requests* the Secretary-General to resume negotiations, without delay, to conclude an agreement with the Government of Cambodia, based on previous negotiations, to establish Extraordinary Chambers consistent with the provisions of the present resolution, so that the Extraordinary Chambers may begin to function promptly;

2. *Recommends* that the Extraordinary Chambers should have subject-matter jurisdiction consistent with that set forth in the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea;

3. *Recommends also* that the Extraordinary Chambers should have personal jurisdiction over senior leaders of Democratic Kampuchea and those who were most responsible for the crimes referred to in paragraph 2 above;

4. *Emphasizes* that arrangements, as devised, in particular, by the Royal Government of Cambodia, for the establishment of Extraordinary Chambers should:

(a) Ensure that the Extraordinary Chambers exercise their jurisdiction in accordance with international standards of justice, fairness and due process of law, as set out in articles 14 and 15 of the International Covenant on Civil and Political Rights;[2]

(b) Include arrangements for an appellate chamber;

[2] Resolution 2200 A (XXI), annex.

5. *Emphasizes also* the importance of ensuring the impartiality, independence and credibility of the process, in particular with regard to the status and work of the judges and prosecutors;

6. *Appeals* to the Government of Cambodia to ensure that persons referred to in paragraph 3 above are brought to trial in accordance with international standards of justice, fairness and due process of law, as referred to in paragraph 4 above, and notes the assurances of the Government of Cambodia in this regard;

7. *Requests* the Secretary-General to report to the General Assembly on the implementation of the present resolution, in particular on his consultations and negotiations with the Government of Cambodia concerning the establishment of the Extraordinary Chambers, no later than ninety days from the date of adoption of the resolution;

8. *Also requests* the Secretary-General, if necessary, to send a team of experts to Cambodia as may be required for the preparation of his report;

9. *Further requests* the Secretary-General to include in his report recommendations for the efficient and cost-effective operation of the Extraordinary Chambers, including the amount of voluntary contributions of funds, equipment and services to the Extraordinary Chambers, inter alia, through the offer of expert personnel, that may be needed from States, intergovernmental organizations and non-governmental organizations;

10. *Appeals* to the international community to provide financial, personnel and other assistance to enable the early establishment and the sustained operation of the Extraordinary Chambers.